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**DEPARTMENT OF INSURANCE**

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**BULLETIN NO. 16-04**

**DATE:** May \_\_, 2016

**TO:** Disability/Health Insurance Carriers in Group or Individual Markets

**FROM:** Dean L. Cameron, Director

**SUBJECT:** Third Party Payments of Premiums or Cost-sharing Expenses

This bulletin to carriers in the group and individual health insurance markets provides guidance regarding the circumstances under which carriers accept third party payments toward a policyholder's or certificate holder's (the insured) insurance premium or out-of-pocket expenses, including deductibles, copayments and coinsurance. This bulletin also addresses the issue of whether out-of-pocket expenses paid by a third party must be counted toward the insured's deductibles or out-of-pocket maximums.

Third party payments made by service providers are addressed at Idaho Code [§ 41-348](#)(2), which prohibits the practice of providers "waiving, rebating, giving, paying, or offering to waive, rebate, give or pay all or part of a claimant's deductible or claim for casualty, disability insurance, worker's compensation insurance, health insurance or property insurance."

Federal regulation addresses third party payments at 45 CFR [§ 156.1250](#), requiring carriers offering Qualified Health Plans (QHPs) to accept third party payments of premiums or cost-sharing from the following entities:

- a Ryan White HIV/AIDS Program,
- an Indian tribe or tribal organization, and
- local, state or federal government programs, including grantees directed by a government program to make payments on its behalf.

The Department of Insurance (Department) extends the federal requirement at 45 CFR § 156.1250 to all carriers offering health benefit plans in Idaho's group and individual markets, because policies that fail to do so would be unfairly prejudicial to the policyholder under Idaho Code § 41-1813. In addition, the Department finds it in the best interest of consumers to require carriers to accept payment on behalf of an insured from the third parties described in the next paragraph for the same reason.

Carriers must accept third party payments from individuals such as family and friends. Carriers must also accept third party payments made by religious institutions and other not-for-profit organizations when each of the following three criteria is met:

- the assistance is provided on the basis of the insured's financial need,
- the institution/organization is not a healthcare provider, and

- the institution/organization is financially disinterested, i.e., the institution/organization does not receive the majority of its funding from entities with a pecuniary interest in the payment of health insurance claims.

Carriers must apply cost-sharing contributions from such third parties toward deductibles and out of pocket maximums as if the insured made the payment directly. The above language defines the minimum set of third parties from which carriers must accept third party payments. Any third party that does not meet the qualifying criteria set forth above is referred to below as “financially interested third party(ies).”

Premium payments to carriers by financially interested third parties are not required to be accepted. Similarly, carriers are not required to accept and count cost-sharing paid by financially interested third parties toward the deductible or out of pocket maximum. If financially interested third party payments of this type are discovered after the fact and have already been counted toward the deductible or out of pocket maximum, carriers may exclude the financially interested third party payment from the accumulation toward the deductible or out of pocket maximum subject to any limitations within the insurance contract on retrospective consideration of claims information.

Health insurance policies issued or renewed on or after January 1, 2017 that include a third party payer prohibition must have language consistent with this bulletin as part of the insured’s contract. If the carrier’s policy allows payments from financially interested third parties, the carrier’s third party payer policy language must not include what would constitute a discretionary clause, as defined and prohibited by IDAPA 18.01.29.

This bulletin is effective immediately for health insurance policies regulated under Title 41, including policies currently in force that contain a third party payer prohibition, and the Department will interpret any third party payer prohibition included in any such health insurance policies consistent with this Bulletin. The Department encourages carriers to proactively contact the Department at 208-334-4300 to discuss any third parties from which the carrier will not be allowing payments. Upon rejecting or otherwise refusing to treat a third party payment as a payment from the insured, carriers must inform the insured of the reason for doing so and of the insured’s right to file a complaint with the Department.